

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

JUL 8 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

SOUTHWESTERN BROADCASTING)
CORPORATION)

MM Docket No. 96-104

For Renewal of License for
Station KLZK(FM)
Brownfield, Texas

DOCKET FILE COPY ORIGINAL

To: Hon. Richard L. Sippel
Administrative Law Judge

**MOTION FOR LEAVE TO FILE ATTACHED
ADDENDUM TO MOTION FOR SUMMARY DECISION**

Southwestern Broadcasting Corporation ("Southwestern") hereby respectfully requests leave to file the attached executed copy of Exhibit F, the Declaration of Thomas Crane, to its Motion for Summary Decision, filed in this proceeding on July 5, 1996. Last minute preparation of the motion prevented counsel from obtaining Mr. Crane's signature on the declaration in time to meet the filing deadline. There are no substantive changes to the Exhibit F filed with the Motion. Mr. Crane has merely corrected some typographical errors and signed the same document which was attached to the motion as Exhibit F.

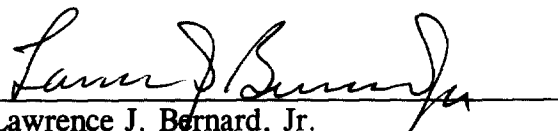
No. of Copies rec'd
List ABCDE

026

WHEREFORE, the premises considered, the Presiding Judge is respectfully requested to accept the attached version of Exhibit F to Southwestern's Motion for Summary Decision.

Respectfully submitted,

SOUTHWESTERN BROADCASTING
CORPORATION

By: 
Lawrence J. Bernard, Jr.
5227 Chevy-Chase Parkway, N.W.
Washington, D.C. 20015
(202) 237-8215

Its Counsel

DECLARATION OF THOMAS CRANE

I, Thomas Crane, hereby declare under penalty of the laws of perjury that the following is true to the best of my knowledge and belief:

1. I am the President of Southwestern Broadcasting Corporation ("Southwestern") whose application for renewal of license for FM radio station KLZK, Brownfield, Texas, has been designated for hearing by the Audio Services Division of the Federal Communications Commission ("FCC").

2. In approximately August or September of 1990, I had several telephone conversations with FCC staff members concerning a then pending application for permission to construct new Class C2 facilities for KLZK (then KLXC), File No. BPH-891026IC on Channel 282C2. I was told that said application could not be granted because the facilities proposed therein were short-spaced under the FCC's rules to the operation of KMMX (then KLSC), Lamesa, Texas, on Channel 284C1 pursuant to Special Temporary Authority ("STA") issued by the FCC. I was told by one FCC staff member that the short-spacing problem was an issue that should be negotiated between KLZK, KMMX and KIOL, Lamesa, Texas, which had previously operated on Channel 284C1. Southwestern's application for the Class C2 facilities was dismissed by the FCC in a letter dated March 17, 1992. Although the relatively minor errors which caused the FCC to dismiss the application were easily corrected, I did not consider refiling it for several years because the operation of KMMX under its STA made it impossible to propose any facilities on Channel 282C2 which could serve Brownfield.

3. After discussing the conflict between the operation of KLZK on Channel 282C2 and the STA operation of KMMX on Channel 284C1 with an engineering consultant, I sent a letter dated October 12, 1990, to the licensee of KIOL proposing a solution to the problem. When I was unable to obtain approval of my proposal from the license of KIOL, I addressed a letter to the FCC on January 10, 1991, asking it to order the other parties to adopt my proposal. The FCC responded to my request by letter dated January 30, 1991, but stated therein that a solution should just be agreed to by the parties and then submitted to the FCC for implementation.

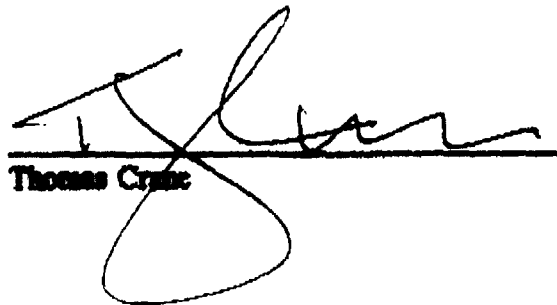
4. I continued to pursue negotiations of a resolution of the conflict, primarily through contact with Lawrence J. Bernard, Jr., counsel for the licensee of KMMX. On June 17, 1992, Mr. Bernard sent me a letter in which he proposed removal of the Channel 284C1 frequency authorized to KMMX under the STA to the KIOL site south of Lamesa where it had been used by KIOL before 1988. I reviewed his proposal and immediately told him Southwestern would support it because under his plan Southwestern could then construct Class C2 facilities for KLZK at Brownfield. However, Mr. Bernard was unable to obtain KIOL's approval of his proposal at that time.

5. In approximately April of 1993 I learned that members of the Commission's staff wanted to meet with counsel for KIOL, KMMX and me to explore a solution to the problem. I could not attend, but Mr. Bernard told me immediately thereafter that the meeting had been attended by the then Chief of the FCC's Audio Services Division, the Chief of the FCC's FM Branch and other FCC personnel and that various proposed solutions to the conflict had been discussed. He also told me that he and counsel for KIOL had agreed

to continue negotiations after the meeting. Following the meeting, I discussed the matter further with Mr. Bernard on several occasions. By early Fall of 1993, Mr. Bernard told me that KIOL and KMMX had agreed in principle to the solution outlined in Mr. Bernard's June 17, 1992 letter, and I agreed that Southwestern would pay \$5,000 toward reimbursement of KMMX's expenses in prosecuting the agreement. On or about December 31, 1993, I executed an Agreement with the licensees of KIOL and KMMX proposing a solution to the conflict.

6. Following designation of the KLZK renewal application for hearing on April 29, 1996, I obtained permission to use a new transmitter site for KLZK to operate on Channel 282C2, and prepared an application to the FCC for new Class C2 facilities at the site. The application was filed with the FCC on May 8, 1996. Subsequently, I prepared the projection of my expenses, Attachment I hereto, and obtained the bank letter, Attachment II hereto.

7. Southwestern is now ready to construct the new facilities proposed in the May 8, 1996 application as soon as a permit for those facilities is issued. I estimate that the new facilities can be constructed and KLZK returned to the air within 90 days of the date we receive a permit.


Thomas Crane

Signed and dated this 8th day of July, 1996.

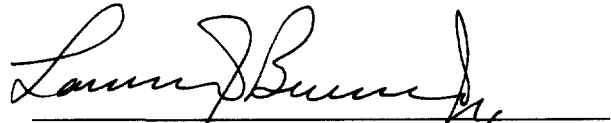
CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion for Summary decision were hand-delivered this 8th day of July 1996 to:

Roy S. Stewart, Esq.
Chief, Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 314
Washington, D.C. 20554

Norman Goldstein, Esq.
Chief, Complaints & Political
Programming Branch
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8210
Washington, D.C. 20554

Kenneth M. Scheibel, Jr.
Attorney, Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 7212
Washington, D.C. 20554



Lawrence J. Bernard, Jr.